

K-C Docket No.: 19394

Serial No.: 10/649,549

Response to Restriction Requirement Dated: November 2, 2005

**Remarks**

In view of the foregoing amendments and following remarks, favorable reconsideration of the present office action is requested.

Claims 1-17 are cancelled, and replaced with new claims 22-37 pending in the present application.

Claims 18-21 were withdrawn previously without prejudice from consideration at this time.

**1. Election/Restrictions**

The Patent Office indicates that a restriction of the claims to one of the following inventions is required under 35 U.S.C. 121:

Group I - Claims 1-17, drawn to a glove, classified in class 428, subclass 35.7.

Group II.- Claims 18-21, drawn to method of making a glove, classified in class 427, subclass 430.1.

In response to the restriction requirement mailed November 2, 2005, Applicant respectfully elects to prosecute the subject matter of Group I, claims 1-17, directed to a glove in the present application. This election is made without traverse. Applicant withdraws claims 18-21 of Group II, and specifically reserves the right to seek patent protection for non-elected subject matter by divisional application.

**2. Double Patenting**

The Patent Office rejects claims 1-3 and 5-17 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1-18 of U.S. Patent No. 6,895,600 (Williams '600 patent), in view of U.S. Patent No. 5,712,346 (Lee '346 patent).

Applicant submits that the present invention as claimed presents no issue of double patenting since the subject as claimed as written are different from the cited references. The Williams '600 patent teaches a base polymer layer that is formed having an ultra-thin outer layer and a inner layer, which sandwiches a base polymer body of the glove in between the two (Col. 8, ln 37-50). In contrast, Applicant's claimed invention has a chemically resistant barrier layer situated in between the base polymer body of the glove substrate and a overlying donning layer. The change in the order of layers in itself makes the attributes of the two articles completely different, and renders the cited reference in applicable. Further, although the Lee '346 patent discusses generally the use of acrylic polymer or copolymers as applied to a natural or synthetic rubber substrate, not a polyvinyl chloride material. A careful reading of the patent reference indicates that the polymer formulations are designed to address a donning coat or release surface to reduce friction, and not adapted for use as a good barrier layer. The reference does not teach chemical barrier properties of acrylic-based copolymers. One can not necessarily assume without further teaching that all kinds of acrylics will have the desired level of chemical permeation resistance.

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Moreover, Lee's acrylic polymer formulations contain least two polymers – one is a copolymer having a low glass transition temperature, and the other a copolymer having a high glass transistion temperature. (Col. 7, lines 24-27.) Lee's formulations include a significant amount of "hard monomers," which he defines as monomers which, if homopolymerized, would have a glass transition temperature (Tg) greater than about 25°C. (Col.5, lines 45-48.) In contrast, Applicant's acrylic polymer or copolymer barrier layer include essentially rather tacky, "soft" polymer components, which have a Tg of less than about 25°C. Hence, a combination of these two references would not lead a person of ordinary skill to derive Applicant's invention as claimed.

### 3. § 102 Rejection

The Patent Office rejects claims 1-12 and 14-17 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No.2003/0115659 A1 (Williams) with further explanation by U.S. Pat. No. 5,712,346 (Lee).

To be anticipatory under 35 U.S.C. § 102, a patent reference must "describe" everhy element recited in the claims at hand. The Williams reference here, like the Williams '600 patent cited above, neither teaches nor mentions a barrier layer that is either visually distinct from a substrate body, or situated between the substrate body and a donning layer that covers the barrier layer, or that the acrylic polymer or copolymer is relatively "soft" with a Tg of less than about 20°C or 24°C, as presently claimed. Further, the barrier layer exhibits a significant degree of chemical permeation resistance to 70% isopropyl alchohol for at over at least an hour, according to ASTM F739-99a. As explained in the foregoing section, Williams teaches merely the use of an acrylic ultra-thin layer on the outside gripping surface of a primary elastomeric substrate, in which the elastomeric substrate is sandwiched in between the ultra-thin outer layer and an inner layer. The Lee reference describes a rubber-based article, not a polyvinyl chloride material as is the base material for Applicant's claimed invention. A rubber article needs to use a coagulant method of forming the substrate, which is not applicable for PVC materials. The acrylic formulations require a combination of high and low Tg copolymers and are reatively thin coatings designed to reduce friction for either donning or stripping, not as a chemical-resistant barrier layer. "If too much low glass transition temperature copolymer is employed, there is a problem of sticking or blocking." (Col. 8, line 6-7.) Furthermore, Lee describes using micro particles to achieve a rough surface for lower friction, including forming microcraters in the surface for texture. (Col. 12, lines 15-17.) Microcrater texture defeats the purpose of a barrier layer, which should not have holes or a weakened film layer. Applicant's barrier layer as currently claimed can not be a donning coating or skin contacting because the "soft" nature of the polymer material, which has a very high coefficient of friction (COF) that would make a glove or other rubber article so coated very difficult to don. To anticipate the present invention, the Williams and Lee references must disclose each and every claimed element. Since the reference does not disclose the barrier layer sandwiched between the substrate and a donning layer as claimed or the relative softness of the acrylic polymers, the references are not anticipatory.

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Thus, Applicant respectfully requests that the rejection be withdrawn.

#### 4 § 103 Rejection

The Patent Office rejects claim 13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0115659 A1 (Williams) in view of U.S. Pat. No. 5,712,346 (Lee). Further, claims 1-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,012,169 (Nishi *et al.*) in view of Lee; and claims 6-17 are also rejected over Nishi *et al.* in view of Lee, and further in view of WO 95/17107 A1 (Horwege *et al.*).

The compositions disclosed in the cited references are different from that of the present invention as claimed. As said before, there is no teaching that a material design to address donning or surface friction will work as a chemical barrier. All of the references cited are concerned with adapting a polymer coating to have low surface energy to reduce the coefficient of friction, and thus improve the ease of donning on skin or stripping from a mold surface. To achieve this functionality, all of the acrylic polymer formulations require the use of some kind of material having a relatively high Tg (i.e., "hard" polymer components), or include silicones, lubricants, or other low-energy components. Like the Lee patent, the Nishi patent clearly requires a plastic polymer resin having a high hardness. (Col. 5, lines 12-14.)

The courts recognize that an invention will not be deemed obvious when one or more of the combined references either "teach away" or are not applicable to the claimed invention. The *prima facie* case of obviousness based on the cited reference can not stand because the the Nishi and Howege references must be combined either individually or together with the prior two for obviousness. Since Applicant has already shown, the Williams references do not apply because the individual layer are in the wrong physical arrangement, and the Lee patent discloses formulations that essentially teach away from the claimed invention, then Applicant's invention can not be deemed obvious. of on or disclose a user-contacting, donning coating made from an acrylic material. The fact that Horwege teaches a polyurethane donning layer is inconsequential when all of the other references cited do not support a combination for obviousness.

For the foregoing reasons, Applicant respectfully requests that the Patent Office withdraw the rejection.

#### 5. Conclusion

Based on the foregoing amendments, remarks, and papers of record, Applicant believes that the pending claims are in allowable form and patentable over the prior art of record.

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Applicant believes that a 2-month extension of time is necessary to make this Response timely. Should Applicant be in error, however, Applicant requests that the Office grant such time extension pursuant to 37 C.F.R. §1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the Kimberly-Clark Worldwide, Inc. deposit account No. 11-0875.

Please direct any questions or comments to Vincent T. Kung at: tel. 770-587-8606.

Respectfully submitted,

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#### CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on 21 March 2006.

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